IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01/08/2003

CORAM

THE HONOURABLE MR.JUSTICE M. CHOCKALINGAM

C.R.P.(PD)NO.1565 OF 2003
AND
C.M.P.NO.11329 OF 2003

1. C.Periyaswamy
2. S. Sankar .. Petitioners

-Vs-

1. K.Saraswathy
2. Karur Municipality
rep. by its Commissioner
Azad Road
Karur .. Respondents

This civil revision petition is preferred under Section 115 of C.P.C. against the order and decreetal order made in IA No.97 of 2003 in OS No.915 of 1998 on the file of the learned Principal District Munsif, Karur dated 24.03.2003.

!For Petitioners : Mr.M.Baskar

^For Respondents : Mr.K.Govindarajan
of M/s. Sarbhauman Associates
for R1 caveator

:ORDER

What is challenged herein is an order of the learned Principal District Munsif, Karur dismissing an application filed by the third parties to implead them as party to the suit.

2. It was a suit filed by the first respondent seeking for permanent injunction and mandatory injunction alleging that she got 5 feet width in the suit property as mentioned in the description of property and the same was exclusively belonged to the plaintiff. The Karur Municipality, who was originally added as defendant in the suit, was making encroachment over the same for laying road, which has got to be immediately injuncted and further mandatory injunction should be granted against the Municipality for removal of the same. The Municipality has filed a written statement and issues have also been framed. The plaintiff's side evidence was over. At this juncture, the instant application has been filed by the revision petitioners herein to add them as defendants in the suit.

3. No case was made out for considering the allegations made in the affidavit. It was a suit filed by the plaintiff against the Municipality alleging that the plaintiff was aggrieved over the encroachment made by the Municipality on her property. Hence, there was a cause of action in the suit. Now, the proposed party/revision petitioners herein have filed the instant application, where no cause of action arose, and apart from that it would be very clear that the application has been filed only to drag on the proceedings and that too the same was filed after the plaintiff's side evidence was over. Apart from that, it is not the case where if not the petitioners herein are added as party, it cannot said that the issues before the trial court cannot be adjudicated upon effectively. It is a well settled proposition of law that a party has to be impleaded in a pending matter, if whose presence is necessary for the effective adjudication of the subject matter before the Court. In the instant case, it cannot be said so at any stretch of imagination. Hence, the lower court was perfectly correct in rejecting the request of the petitioners herein to implead them as a party to the suit. This Court is unable to see any infirmity or illegality in the order of the lower court. Hence, this civil revision petition is dismissed. No costs. Consequently, connected CMP is also dismissed.

Index : Yes
Internet : Yes

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To

The Principal District Munsif,
Karur